

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NUMBER: 2001-0185-PST-E TCEQ ID NOS.: 8427, 8520, 8527, 8528, AND 8516
ENF ID NOS.: 15609, 15608, 15607, 4217, AND 5471
RESPONDENT NAME: TXG PROPERTIES OF TEXAS, LLC

Page 1 of 2

ORDER TYPE:

<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:

<input type="checkbox"/> AGRICULTURE	<input type="checkbox"/> AIR	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE	<input type="checkbox"/> MUNICIPAL SOLID WASTE
<input type="checkbox"/> OCCUPATIONAL CERTIFICATION	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> RADIOACTIVE WASTE
<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL	<input type="checkbox"/> USED OIL
<input type="checkbox"/> USED OIL FILTER	<input type="checkbox"/> WATER QUALITY		

SITE WHERE VIOLATION(S) OCCURRED: 911 College, Levelland, Hockley County; 7909 19th Street, Lubbock, Lubbock County; 114 N. University, Lubbock, Lubbock County; 7301 Brownfield Hwy, Lubbock, Lubbock County; 906 Farm-to-Market Road 1585, Lubbock, Lubbock County

TYPE OF OPERATION: Convenience stores with retail sales of gasoline

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no previous complaints. There is no record of additional pending enforcement actions regarding these facilities

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on November 20, 2006. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019; Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873

TCEQ Enforcement Coordinator: Ms. Deana Holland, Enforcement Division, Section II, MC 219, (512) 239-2504

TCEQ Regional Contact: Mr. Jeff Bertl, Lubbock Regional Office, MC R-2, (806) 796-7092

Respondent: Mr. R. J. Dalley, Vice President, TXG Properties of Texas, LLC, 710 East 20th Street, Farmington, New Mexico 87401

Respondent's Attorney: Mr. Seth Randle, DuBois, Bryant, Campbell & Schwartz, LLP, 700 Lavaca, Suite 1300, Austin, Texas 78701

**RESPONDENT'S NAME: TXG PROPERTIES OF TEXAS, LLC
DOCKET NO.: 2001-0185-PST-E**

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date(s) of Investigation(s) Relating to this Case: March 7, 2000; March 8, 2000; June 1, 2000</p> <p>Date(s) of NOV(s)/NOE(s) Relating to this Case: June 21, 2000 (NOV); October 23, 2000 (NOE)</p> <p>Background Facts:</p> <p>All five of the Facilities were seized by the Texas Comptroller's Office in April 1999 due to allegations of tax fraud against the entity operating the Facilities. The Facilities were purchased by Respondent at a foreclosure sale in February 2000, approximately one month prior to the TCEQ inspections. Protracted negotiations took place between TCEQ, the Comptroller's Office, the previous owner/operator, and the Respondent in order to determine which party was ultimately responsible for the violations. The EDP RP was filed on June 30, 2004. Negotiations resumed with Respondent's newly-retained counsel. The case was referred to the State Office of Administrative Hearings on February 24, 2006. Settlement was achieved and a signed Agreed Order with initial payment of \$1,500 was received on September 18, 2006.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p>PST:</p> <p>(1) Failed to meet the requirements for protecting and monitoring the temporarily out-of-service UST systems located at each of the Facilities [30 TEX. ADMIN. CODE §§ 334.54(c), 334.49(a)(2), 334.50(b)(1)(A), and TEX. WATER CODE § 26.3475].</p> <p>(2) Failed to amend the registration to reflect the current status of the tank systems located at four of the Facilities [30 TEX. ADMIN. CODE § 334.7(d)(3)].</p> <p>(3) Failed to pay underground storage tank fees and associated penalties and interest for each of the Facilities [30 TEX. ADMIN. CODE §§ 334.21 and 334.22, and TEX. WATER CODE § 5.702].</p>	<p>Total Assessed: \$16,500</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>Total Paid/Due to General Revenue: \$1,500/\$15,000 The Respondent paid \$1,500 of the administrative penalty. The remaining amount of \$15,000 will be paid within 30 days after the effective date of this Agreed Order.</p> <p>Site Compliance History Classification: N/A</p> <p>Person Compliance History Classification: N/A</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: January 1999</p>	<p>Corrective Action(s):</p> <p>The Respondent no longer owns the Facilities.</p>

TNRCC Penalty Calculation Worksheet
 Plcy. rev. 1 (01/99) PCW rev. 12/01/2000

Go to VL 1

Case Information

Screening Date	15-Dec-2000	Case Priority Due Date	14-Apr-2001
PCW Date	7-Jun-2006	EPA SNC/SV Due Date	
Respondent	TXG Properties of Texas, LLC		
ID Number(s)	PST Facility ID No. 0008427; Enf. ID No. 15609 (Citgo #410)		
Docket Number	2001-0185-PST-E	Facility/Site Region	R2 (Lubbock)
Enf. Coordinator	Brian Lehmkuhle	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	2
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	PST	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) **\$2,500**

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No NOVs for same or similar violations have been issued in the last 5 years.

Adjustment amount (subtotal 2) **\$0**

Economic Benefit (enhancement)

Total of EB Amounts **\$249**

EB Enhancement (percent) **0%**

Adjustment amount (subtotal 5) **\$0**

Approx. Cost of Compliance **\$15,000**

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	(mark only one; use small x)	

Notes: The Respondent no longer owns the Facility as of September 2000.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)

Enter Percent **0** (enter number only, e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions for environmental laws.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal **\$2,500**

Other Factors as justice may require

Enter Adjustment Percentage (+/-) **0%** (enter number only; e.g., -30 for -30%)

Amount **\$0**

Notes:
 Final Penalty Amount **\$2,500**

Final Assessed Penalty (including any statutory limit adj.) **\$2,500**

Payable Penalty

Enter Deferral Percentage (enter number only, e.g., 20 for 20%)

Deferral **\$0**

Notes: No deferral is recommended since this is not an expedited case.

Payable Penalty **\$2,500**

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008427; Enf. ID No. 15609 (Citgo #410) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 1
Primary Rule Cite 30 Tex. Admin. Code § 334.54(c) - Temporary Removal from Service
Secondary Cite(s) 30 Tex. Admin. Code § 334.49(a)(2); 30 Tex. Admin. Code § 334.50(b)(1)(A); Tex. Water Code § 26.3475
Violation Description Failure to meet the requirements for protected and monitored UST systems to remain temporarily out of service. Failure to monitor for releases and maintain corrosion protection for the UST systems as documented during a June 1, 2000 inspection.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

		Major	Moderate	Minor	
Matrix Notes	Falsification				Percent

Failure to monitor for releases and maintain corrosion protection for the tanks may result in the release(s) of pollutants which may exceed levels that are protective of human health and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Events Notes One annual event is recommended for the period from June 1, 2000 (date of the inspection) to September 30, 2000 (date of sale), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$249	Violation Final Penalty total \$2,500
This Violation Final Assessed Penalty (adjusted for limits) \$2,500	

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
 ID Number(s) PST Facility ID No. 0008427; Enf. ID No. 15609 (Citgo #410)
 Media [Statute] PST
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$15,000	1-Jun-2000	30-Sep-2000	0.3	\$249	n/a	\$249
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close three underground storage tanks.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$15,000

TOTAL \$249

Screening Date 15-Dec-00 Docket Number 2001-0185-PST-E

PCW

Respondent TXG Properties of Texas, LLC

Plcy. rev. 1 (01/99)

ID Number(s) PST Facility ID No. 0008427; Enf. ID No. 15609 (Citgo #410)

PCW rev. 12/01/2000

Media [Statute] PST

Enf. Coordinator Brian Lehmkuhle

Violation Number 2

Primary Rule Cite 30 Tex. Admin. Code § 334.21 - Fee Assessment and 30 Tex. Admin. Code § 334.22 - Failure to make payment

Secondary Cite(s) Tex. Water Code § 5.702

Violation Description Failure to pay underground storage tank fees, including any associated penalties and interest.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

Harm

Release	Major	Moderate	Minor
Actual			
Potential			

OR

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent

Matrix Notes

No penalty is calculated for fee violations.

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$0

This Violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC

ID Number(s) PST Facility ID No. 0008427; Enf. ID No. 15609 (Citgo #410)

Media [Statute] PST

Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

No economic benefit will be calculated for this violation.

Approx Cost of Compliance

TOTAL

TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99)

PCW rev. 12/01/2000

Go to VL 1

Case Information

Screening Date	15-Dec-2000	Case Priority Due Date	14-Apr-2001
PCW Date	7-Jun-2006	EPA SNC/SV Due Date	
Respondent	TXG Properties of Texas, LLC		
ID Number(s)	PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411)		
Docket Number	2001-0185-PST-E	Facility/Site Region	R2 (Lubbock)
Enf. Coordinator	Brian Lehmkuhle	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	3
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	PST	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) \$3,500

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No NOV's for same or similar violations have been issued in the last 5 years.

Adjustment amount (subtotal 2) \$0

Economic Benefit (enhancement)

Total of EB Amounts \$569
 EB Enhancement (percent) 0%
 Approx. Cost of Compliance \$20,060

Adjustment amount (subtotal 5) \$0

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark only one; use small x)

Notes: The Respondent no longer owns the Facility as of September 2000.

Adjustment amount (subtotal 3) \$0

Compliance History (enhancement)

Enter Percent 0 (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions for environmental laws.

Adjustment amount (subtotal 4) \$0

Final Subtotal \$3,500

Other Factors as justice may require

Enter Adjustment Percentage (+/-) 0% (enter number only; e.g., 30 for -30%)

Amount \$0

Notes:
if more space is needed, increase row height

Final Penalty Amount \$3,500

Final Assessed Penalty (including any statutory limit adj.) \$3,500

Payable Penalty

Enter Deferral Percentage (enter number only; e.g., 20 for 20%)

Deferral \$0

Notes: No deferral is recommended since this is not an expedited case.

Payable Penalty \$3,500

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 1
Primary Rule Cite 30 Tex. Admin. Code § 334.54(c) - Temporary Removal from Service
Secondary Cite(s) 30 Tex. Admin. Code § 334.49(a)(2); 30 Tex. Admin. Code § 334.50(b)(1)(A); Tex. Water Code § 26.3475
Violation Description Failure to meet the requirements for protected and monitored UST systems to remain temporarily out of service. Failure to monitor for releases and maintain corrosion protection for the UST systems as documented during a March 7, 2000 inspection.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
Matrix Notes						Percent
	Failure to monitor for releases and maintain corrosion protection for the tanks may result in the release(s) of pollutants which may exceed levels that are protective of human health and environmental receptors.					

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Events Notes One annual event is recommended for the period from March 7, 2000 (date of the inspection) to September 30, 2000 (date of sale), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$567	Violation Final Penalty total \$2,500
This Violation Final Assessed Penalty (adjusted for limits) \$2,500	

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC

ID Number(s) PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411)

Media [Statute] PST

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$20,000	7-Mar-2000	30-Sep-2000	0.6	\$567	n/a	\$567
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close four underground storage tanks.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date	15-Dec-00	Docket Number	2001-0185-PST-E	PCW
Respondent	TXG Properties of Texas, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411)			PCW rev. 12/01/2000
Media [Statute]	PST			
Enf. Coordinator	Brian Lehmkuhle			
Violation Number	2			
Primary Rule Cite	30 Tex. Admin. Code § 334.7(d)(3) - Registration			
Secondary Cite(s)				
Violation Description	Failure to amend the registration to reflect the current status of the tank system.			

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

» Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of this rule requirement was not met.					

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes One single penalty event is recommended for the inspection on March 7, 2000.

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$2

Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411)
Media [Statute] PST
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$60	7-Mar-2000	30-Sep-2000	0.6	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost of providing amended registration documents.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$60

TOTAL \$2

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 3
Primary Rule Cite 30 Tex. Admin. Code § 334.21 - Fee Assessment and 30 Tex. Admin. Code § 334.22 - Failure to make payment
Secondary Cite(s) Tex. Water Code § 5.702
Violation Description Failure to pay underground storage tank fees, including any associated penalties and interest.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				
Potential					

» **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Matrix Notes: No penalty is calculated for fee violations.

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$0 **Violation Final Penalty total** \$0

This Violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008520; Enf. ID No. 15608 (Citgo #411)
Media [Statute] PST
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

No economic benefit will be calculated for this violation.

Approx Cost of Compliance

TOTAL

TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99)

PCW rev. 12/01/2000

Go to VL 1

Case Information

Screening Date	15-Dec-2000	Case Priority Due Date	14-Apr-2001
PCW Date	7-Jun-2006	EPA SNC/SV Due Date	
Respondent	TXG Properties of Texas, LLC		
ID Number(s)	PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412)		
Docket Number	2001-0185-PST-E	Facility/Site Region	R2 (Lubbock)
Enf. Coordinator	Brian Lehmkuhle	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	3
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	PST	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1

Total Base Penalty forward (subtotal 1) **\$3,500**

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No NOV's for same or similar violations have been issued in the last 5 years.

Adjustment amount (subtotal 2) **\$0**

Economic Benefit (enhancement)

Total of EB Amounts **\$425**
 EB Enhancement (percent) **0%**
 Approx. Cost of Compliance **\$15,060**

Adjustment amount (subtotal 5) **\$0**

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	(mark only one; use small x)	

Notes: The Respondent no longer owns the Facility as of September 2000.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)

Enter Percent **0** (enter number only; e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions for environmental laws.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal **\$3,500**

Other Factors as justice may require

Enter Adjustment Percentage (+/-) **0%** (enter number only; e.g., -30 for -30%)

Notes: (if more space is needed, increase row height)

Amount **\$0**

Final Penalty Amount **\$3,500**

Final Assessed Penalty (including any statutory limit adj.) **\$3,500**

Payable Penalty

Enter Deferral Percentage (enter number only; e.g., 20 for 20%)

Notes: No deferral is recommended since this is not an expedited case.

Deferral **\$0**

Payable Penalty **\$3,500**

Screening Date 15-Dec-00 Docket Number 2001-0185-PST-E

PCW

Respondent TXG Properties of Texas, LLC

Plcy. rev. 1 (01/99)

ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412)

PCW rev. 12/01/2000

Media [Statute] PST

Enf. Coordinator Brian Lehmkuhle

Violation Number 1

Primary Rule Cite 30 Tex. Admin. Code § 334.54(c) - Temporary Removal from Service

Secondary Cite(s) 30 Tex. Admin. Code § 334.49(a)(2); 30 Tex. Admin. Code § 334.50(b)(1)(A); Tex. Water Code § 26.3475

Violation Description Failure to meet the requirements for protected and monitored UST systems to remain temporarily out of service. Failure to monitor for releases and maintain corrosion protection for UST systems as documented during a March 8, 2000 inspection.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

» Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Failure to monitor for releases and maintain corrosion protection for the tanks may result in the release(s) of pollutants which may exceed levels that are protective of human health and environmental receptors.					

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$2,500

Events Notes

One annual event is recommended for the period from March 8, 2000 (date of the inspection) to September 30, 2000 (date of sale), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount (\$) \$423

Violation Final Penalty total \$2,500

This Violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
 ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412)
 Media [Statute] PST
 Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$15,000	8-Mar-2000	30-Sep-2000	0.6	\$423	n/a	\$423
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close 3 underground storage tanks.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$15,000

TOTAL \$423

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Ptcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 2
Primary Rule Cite 30 Tex. Admin. Code § 334.7(d)(3) - Registration
Secondary Cite(s)
Violation Description Failure to amend the registration to reflect the current status of the tank system.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual					
Potential					

» Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
			x		
100% of this rule requirement was not met.					

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes

One single penalty event is recommended for the inspection on March 8, 2000.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$2

Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412)
Media [Statute] PST
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$60	8-Mar-2000	30-Sep-2000	0.6	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost of providing amended registration documents.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$60

TOTAL \$2

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Pficy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 3
Primary Rule Cite 30 Tex. Admin. Code § 334.21 - Fee Assessment and 30 Tex. Admin. Code § 334.22 - Failure to make payment
Secondary Cite(s) Tex. Water Code § 5.702
Violation Description Failure to pay underground storage tank fees, including any associated penalties and interest.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				
	Potential				

» **Programmatic Matrix**

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
	No penalty is calculated for fee violations.				

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="checkbox"/>
monthly	<input type="checkbox"/>
quarterly	<input type="checkbox"/>
semiannual	<input type="checkbox"/>
annual	<input type="checkbox"/>
single event	<input type="checkbox"/>

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) \$0 **Violation Final Penalty total** \$0

This Violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008527; Enf. ID No. 15607 (Citgo #412)
Media [Statute] PST
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs							

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Notes for AVOIDED costs	No economic benefit will be calculated for this violation.						

Approx Cost of Compliance \$0 **TOTAL** \$0

TNRCC

Penalty Calculation Worksheet

Pficy. rev. 1 (01/99)

PCW rev. 12/01/2000

Go to VL 1

Case Information

Screening Date	15-Dec-2000	Case Priority Due Date	14-Apr-2001
PCW Date	7-Jun-2006	EPA SNC/SV Due Date	
Respondent	TXG Properties of Texas, LLC		
ID Number(s)	PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)		
Docket Number	2001-0185-PST-E	Facility/Site Region	R2 (Lubbock)
Enf. Coordinator	Brian Lehmkuhle	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	3
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	PST	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) **\$3,500**

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No NOV's for same or similar violations have been issued in the last 5 years.

Adjustment amount (subtotal 2) **\$0**

Economic Benefit (enhancement)

Total of EB Amounts **\$707**

EB Enhancement (percent) **0%**

Adjustment amount (subtotal 5) **\$0**

Approx. Cost of Compliance **\$25,060**

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	<i>(mark only one; use small x)</i>	

Notes: The Respondent no longer owns the Facility as of September 2000.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)

Enter Percent **0** *(enter number only; e.g., 30 for 30%)*

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions for environmental laws.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal **\$3,500**

Other Factors as justice may require

Enter Adjustment Percentage (+/-) **0%** *(enter number only; e.g., -30 for -30%)*

Notes:

Amount **\$0**

Final Penalty Amount **\$3,500**

Final Assessed Penalty (including any statutory limit adj.) **\$3,500**

Payable Penalty

Enter Deferral Percentage *(enter number only; e.g., 20 for 20%)*

Notes: No deferral is recommended since this is not an expedited case.

Deferral **\$0**

Payable Penalty **\$3,500**

Screening Date 15-Dec-00 Docket Number 2001-0185-PST-E

PCW

Respondent TXG Properties of Texas, LLC

Plcy. rev. 1 (01/99)

ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)

PCW rev. 12/01/2000

Media [Statute] PST

Enf. Coordinator Brian Lehmkuhle

Violation Number

1
30 Tex. Admin. Code § 334.54(c) - Temporary Removal from Service

Primary Rule Cite

30 Tex. Admin. Code § 334.49(a)(2); 30 Tex. Admin. Code § 334.50(b)(1)(A); Tex. Water Code § 26.3475
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Secondary Cite(s)

Violation Description

Failure to meet the requirements for protected and monitored UST systems to remain temporarily out of service. Failure to monitor for releases and maintain corrosion protection for the UST systems as documented during a March 8, 2000 inspection.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				25%
	Potential	x			

» Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
Failure to monitor for releases and maintain corrosion protection for the UST systems may result in the release(s) of pollutants which may exceed levels that are protective of human health and environmental receptors.					
					Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Events Notes

One annual event is recommended for the period from March 8, 2000 (date of the inspection) to September 30, 2000 (date of sale), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$705 Violation Final Penalty total \$2,500

This Violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)
Media [Statute] PST
Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$25,000	8-Mar-2000	30-Sep-2000	0.6	\$705	n/a	\$705
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close five underground storage tanks.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance \$25,000

TOTAL \$705

Screening Date 15-Dec-00 Docket Number 2001-0185-PST-E

PCW

Respondent TXG Properties of Texas, LLC

Plcy. rev. 1 (01/99)

ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)

PCW rev. 12/01/2000

Media [Statute] PST

Enf. Coordinator Brian Lehmkuhle

Violation Number 2

Primary Rule Cite 30 Tex. Admin. Code § 334.7(d)(3) - Registration

Secondary Cite(s)

Violation Description Failure to amend the registration to reflect the current status of the tank system.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

		Harm		
Release		Major	Moderate	Minor
Actual	OR			
Potential				

Percent

» Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Matrix Notes: 100% of this rule requirement was not met.

Percent 10%

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes: One single penalty event is recommended for the inspection on March 8, 2000.

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$2 Violation Final Penalty total \$1,000

This Violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)
Media [Statute] PST
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$60	8-Mar-2000	30-Sep-2000	0.6	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost of providing amended registration documents.

Avoided Costs ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

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Approx Cost of Compliance \$60 **TOTAL** \$2

Screening Date 15-Dec-00 Docket Number 2001-0185-PST-E

PCW

Respondent TXG Properties of Texas, LLC

Plcy. rev. 1 (01/99)

ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)

PCW rev. 12/01/2000

Media [Statute] PST

Enf. Coordinator Brian Lehmkuhle

Violation Number 3

Primary Rule Cite 30 Tex. Admin. Code § 334.21 - Fee Assessment and 30 Tex. Admin. Code § 334.22 - Failure to make payment

Secondary Cite(s) Tex. Water Code § 5.702

Violation Description Failure to pay underground storage tank fees, including any associated penalties and interest.

Base Penalty \$10,000

» Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
		Actual			
Potential					

» Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent
No penalty is calculated for fee violations.					

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

- daily
- monthly
- quarterly
- semiannual
- annual
- single event

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation Statutory Limit Test

Estimated EB Amount (\$) \$0

Violation Final Penalty total \$0

This Violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC

ID Number(s) PST Facility ID No. 0008528; Enf. ID No. 5471 (Citgo #413)

Media [Statute] PST

Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

No economic benefit will be calculated for this violation.

Approx Cost of Compliance

TOTAL

TNRCC

Penalty Calculation Worksheet

Plcy. rev. 1 (01/99) PCW rev. 12/01/2000

Go to VL 1

Case Information

Screening Date	15-Dec-2000	Case Priority Due Date	14-Apr-2001
PCW Date	7-Jun-2006	EPA SNC/SV Due Date	
Respondent	TXG Properties of Texas, LLC		
ID Number(s)	PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414)		
Docket Number	2001-0185-PST-E	Facility/Site Region	R2 (Lubbock)
Enf. Coordinator	Brian Lehmkuhle	EC's Unit or Region	Team 1
Type of Order	1660	No. of Violations in PCW	3
Case Priority	3	Enter x for Major Source (as defined in PP)	

Media-Program

x	Program Name(s)	Min	Max
x	PST	\$0	\$10,000
	Water Rights	\$0	\$5,000
		\$0	\$2,500
	Public Water Supply	\$50	\$1,000
	Levees	\$0	\$1,000
	Public Water Utilities	\$0	\$500

Adjustments to Subtotal 1 Total Base Penalty forward (subtotal 1) **\$3,500**

Culpability (enhancement)

Does the respondent meet any of the culpability criteria? Yes No

Notes: No NOV's for same or similar violations have been issued in the last 5 years.

Adjustment amount (subtotal 2) **\$0**

Economic Benefit (enhancement)

Total of EB Amounts **\$566**

EB Enhancement (percent) **0%**

Adjustment amount (subtotal 5) **\$0**

Approx. Cost of Compliance **\$20,060**

Good Faith Effort to Comply (reduction)

Timing of Action

Quality of Action	Before NOV	NOV to EDPRP or Order	Percent
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	0%
None of the above	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(mark only one; use small x)

Notes: The Respondent no longer owns the Facility as of September 2000.

Adjustment amount (subtotal 3) **\$0**

Compliance History (enhancement)

Enter Percent **0%** (enter number only, e.g., 30 for 30%)

Notes: There is no record of previous findings orders, judicial actions, or criminal convictions for environmental laws.

Adjustment amount (subtotal 4) **\$0**

Final Subtotal **\$3,500**

Other Factors as justice may require

Enter Adjustment Percentage (+/-) **0%** (enter number only, e.g., -30 for -30%)

Amount **\$0**

Notes: (if more space is needed, increase row height)

Final Penalty Amount **\$3,500**

Payable Penalty

Final Assessed Penalty (including any statutory limit adj.) **\$3,500**

Enter Deferral Percentage **0%** (enter number only, e.g., 20 for 20%)

Deferral **\$0**

Notes: No deferral is recommended since this is not an expedited case.

Payable Penalty **\$3,500**

Screening Date	15-Dec-00	Docket Number	2001-0185-PST-E	PCW
Respondent	TXG Properties of Texas, LLC			Plcy. rev. 1 (01/99)
ID Number(s)	PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414)			PCW rev. 12/01/2000
Media [Statute]	PST			
Enf. Coordinator	Brian Lehmkuhle			
Violation Number	1			
Primary Rule Cite	30 Tex. Admin. Code § 334.54(c) - Temporary Removal from Service			
Secondary Cite(s)	30 Tex. Admin. Code § 334.49(a)(2); 30 Tex. Admin. Code § 334.50(b)(1)(A); Tex. Water Code § 26.3475			
Violation Description	Failure to meet all the requirements for protected and monitored UST systems to remain temporarily out of service. Failure to maintain corrosion protection for the UST systems as documented during a March 7, 2000 inspection.			

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual				
	Potential	x			Percent 25%

» **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					Percent

Matrix Notes

Failure to maintain corrosion protection for the tanks may result in the release(s) of pollutants which may exceed levels that are protective of human health and environmental receptors.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$2,500

Events Notes

One annual event is recommended for the period from March 8, 2000 (date of the inspection) to September 30, 2000 (date of sale), to make the penalty commensurate with the situation.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$564	Violation Final Penalty total \$2,500
This Violation Final Assessed Penalty (adjusted for limits) \$2,500	

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC

ID Number(s) PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414)

Media [Statute] PST

Violation Number 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal	\$20,000	8-Mar-2000	30-Sep-2000	0.6	\$564	n/a	\$564
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to close four underground storage tanks.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx Cost of Compliance

TOTAL

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number 2
Primary Rule Cite 30 Tex. Admin. Code § 334.7(d)(3) - Registration
Secondary Cite(s)
Violation Description Failure to amend the registration to reflect the current status of the tank system.

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

		Harm			
		Major	Moderate	Minor	
OR	Release				
	Actual				
	Potential				Percent

 » **Programmatic Matrix**

		Major	Moderate	Minor	
	Falsification				
		x			Percent 10%

Matrix Notes 100% of this rule requirement was not met.

Adjustment -\$9,000

Base Penalty Subtotal \$1,000

Violation Events

Number of Violation Events 1

mark only one; use small x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

Events Notes One single penalty event is recommended for the inspection on March 8, 2000.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount (\$) \$2	Violation Final Penalty total \$1,000
This Violation Final Assessed Penalty (adjusted for limits) \$1,000	

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414)
Media [Statute] PST
Violation Number 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)	\$60	8-Mar-2000	30-Sep-2000	0.6	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost of providing amended registration documents.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

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Approx Cost of Compliance

TOTAL

Screening Date 15-Dec-00 **Docket Number** 2001-0185-PST-E **PCW**
Respondent TXG Properties of Texas, LLC **Plcy. rev. 1 (01/99)**
ID Number(s) PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414) **PCW rev. 12/01/2000**
Media [Statute] PST
Enf. Coordinator Brian Lehmkuhle
Violation Number
Primary Rule Cite
Secondary Cite(s)
Violation Description

Base Penalty \$10,000

» **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

OR

» **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>				

Matrix Notes

Adjustment -\$10,000

Base Penalty Subtotal \$0

Violation Events

Number of Violation Events

mark only one; use small x

daily	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input type="text"/>

Violation Base Penalty \$0

Events Notes

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount (\$) **Violation Final Penalty total**

This Violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent TXG Properties of Texas, LLC
ID Number(s) PST Facility ID No. 0008516; Enf. ID No. 4217 (Citgo #414)
Media [Statute] PST
Violation Number 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs **ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

No economic benefit will be calculated for this violation.

Approx Cost of Compliance

TOTAL

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TXG PROPERTIES OF TEXAS,
LLC;
PETROLEUM STORAGE TANK
FACILITY ID NOS. 8427, 8520,
8527, 8528, AND 8516

§
§
§
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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2001-0185-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TXG Properties of Texas, LLC ("TXG") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and TXG, represented by Seth Randle of the law firm of Jenkins & Gilchrist, P.C., appear before the Commission and together stipulate that:

1. At the time of the alleged violations, TXG held title to convenience stores with retail sales of gasoline located at 911 College, Levelland, Hockley County, Texas (Facility No. 8427); 7909 19th Street, Lubbock, Lubbock County, Texas (Facility No. 8520); 114 N. University, Lubbock, Lubbock County, Texas (Facility No. 8527); 7301 Brownfield Hwy, Lubbock, Lubbock County, Texas (Facility No. 8528); and Farm-to-Market Road 1585 & Tahoka Hwy (currently listed as 906 Farm-to-Market Road 1585), Lubbock, Lubbock County, Texas (Facility No. 8516); (collectively, the "Facilities"). The underground storage tanks ("UST's") located at the Facilities were not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. TXG's USTs contained a regulated petroleum substance as defined in the rules of the Commission.
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE chs. 5 and 26 and TCEQ rules.
3. The Commission and TXG agree that the Commission has jurisdiction to enter this Agreed Order, and that TXG is subject to the Commission's jurisdiction.

4. TXG received notice of the violations alleged in Section II ("Allegations") on or about October 26, 2000.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by TXG of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of sixteen thousand five hundred dollars (\$16,500.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). TXG has paid one thousand five hundred dollars (\$1,500.00) of the administrative penalty. The remaining amount of fifteen thousand dollars (\$15,000.00) of the administrative penalty shall be paid within 30 days after the effective date of this Agreed Order. If TXG fails to timely and satisfactorily comply with the payment requirement of this Agreed Order, the unpaid balance shall become immediately due and payable without demand or notice and will constitute the failure by TXG to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and TXG have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that TXG no longer owns the Facilities, thus, no corrective measures are necessary.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that TXG has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. TXG is alleged to have violated:
 - a. 30 TEX. ADMIN. CODE §§ 334.54(c), 334.49(a)(2), 334.50(b)(1)(A), and TEX. WATER CODE § 26.3475, by failing to meet the requirements for protecting and monitoring the temporarily out-of-service UST systems located at the Facilities, as documented during investigations conducted on March 7, 2000 (at Facility 8520), March 8, 2000 (at Facilities 8516, 8527, and 8528), and June 1, 2000 (at Facility 8427).
 - b. 30 TEX. ADMIN. CODE § 334.7(d)(3), by failing to amend the registration to reflect the current status of the tank systems located at the Facilities, as documented during investigations conducted on March 7, 2000 (at Facility 8520), and March 8, 2000 (at Facilities 8516, 8527, and 8528).
 - c. 30 TEX. ADMIN. CODE §§ 334.21 and 334.22, and TEX. WATER CODE § 5.702, by failing to pay underground storage tank fees and associated penalties and interest for each of the Facilities, as documented during investigations conducted on March 7, 2000 (at Facility 8520), March 8, 2000 (at Facilities 8516, 8527, and 8528), and June 1, 2000 (at Facility 8427).

III. DENIALS

TXG generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that TXG pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and TXG's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. This Agreed Order, issued by the Commission, shall not be admissible against TXG in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

3. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
4. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to TXG, or three days after the date on which the Commission mails notice of the Order to TXG, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Berenson Penhale

For the Executive Director

11/27/06

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on TXG's compliance history;
- Greater scrutiny of any permit applications submitted by TXG;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against TXG;
- Automatic referral to the Attorney General's Office of any future enforcement actions against TXG; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution

R. J. Dalley
Signature

9/13/2006
Date

R. J. DALLEY
Name (Printed or typed)
Authorized representative of
TXG Properties of Texas, LLC

VICE PRESIDENT
Title